

COMMITTEE INSIGHTS

Report and Recommendation to the Council of the ABA Section of International Law and Practice on the Joint Task Force on Cuban Technical Assistance*

I. Introduction

In October 1991, Gerold W. Libby and Jay M. Vogelsson, the chair and deputy chair-elect, respectively, of the Section, proposed the idea of exploring the possibility of a Cuban technical assistance project for the Section. Andrew J. Markus, chair of the Inter-American Law Committee, and Joseph P. Klock, Jr., and Ulice Payne, Jr., chair and vice chair, respectively, of the Caribbean Law Committee, expressed an interest in working through their respective committees to explore the idea.

The Inter-American Law Committee and the Caribbean Law Committee have formed a Joint Task Force on Cuban Technical Assistance. The Joint Task Force has been studying the history of Cuba, the historical influences on the people of Cuba, United States laws affecting Cuba and, in particular, foreign investment into Cuba, Cuba's legal relationships with other countries and with international organizations, and the general nature of other projects being discussed in the U.S. with respect to Cuba. The Joint Task Force has not completed the study projects discussed above. In moving forward with the study projects, the Joint Task Force

*The people principally responsible for the preparation of this report were: Andrew J. Markus, chair of the Inter-American Law Committee; Joseph P. Klock, Jr., chair of the Caribbean Law Committee; Ulice Payne, Jr., vice chair of the Caribbean Law Committee; Daniel Aaronson; and Reuben Diaz.

expects to attract the involvement and broad participation of the membership of the Inter-American Law Committee and the Caribbean Law Committee. At this stage, however, the Joint Task Force is prepared to make some recommendations with respect to the feasibility of various projects and the general direction of the Joint Task Force.

The Joint Task Force believes that its actions should consider, first, that Cuba's political and legal systems are experiencing significant changes as Cuba attempts to reintegrate itself into a post-Communist world community. Second, the question of human rights violations in Cuba are of significant importance to Cuba's efforts at reintegration. Third, it is impossible to determine with certainty Fidel Castro's political future in Cuba.

Based on these considerations, the Joint Task Force's projects and studies will attempt to deal with Cuba's political situation realistically, and, to the extent possible, apolitically. Second, the Joint Task Force hopes to encourage projects which will permit all Section members to participate in a meaningful way in the work of the Joint Task Force. Third, the Joint Task Force is committed to coordinating its projects with other qualified groups, within and outside the Section. Finally, all projects will attempt to develop a better understanding between the two countries of the legal systems of each.

As a first step, the Joint Task Force proposes to sponsor, together with the International Legal Exchange Committee, an exchange under which Cuban jurists, lawyers, and others appropriately within the Cuban legal system would be invited to the United States. The visiting attorneys would be permitted to observe and study our political, social, and legal institutions. The Joint Task Force would benefit and learn from their unique understanding of their own legal system in a manner that would further the studies of the Joint Task Force.

The International Legal Exchange Committee of the Section has expressed its willingness to participate in the program and to assist the Joint Task Force in the preparation of the agenda. The Joint Task Force believes that the schedule would include meetings in Washington, D.C., New York, and Miami, in order to provide for the broadest participation and to allow meetings with community leaders in our country. Any visit to New York would include visits to the New York Stock Exchange and the United Nations and "working meetings" with other influential legal groups. In Washington, D.C., the group would visit various government agencies and departments, in addition to the Congress, the Supreme Court and the State Department. Finally, in Miami, the group would participate in a comparative law seminar under the auspices of the University of Miami's North-South Center, the University of Florida's Graduate School of Latin American Studies or some other suitable educational organization. Of course, any exchange program would be conducted in compliance with the provisions of U.S. law and, in particular, the Cuban Asset Control Regulations.

As a second step, and simultaneously with the ILEX exchange discussed above, the Joint Task Force proposes to study the Cuban legal property title system. The

study would attempt to generate suggestions for necessary reformations of the system in a manner that would assist Cuba's efforts at reintegration into the world community. The University of Florida Graduate School of Latin American Studies and the Center for Governmental Responsibility of the University of Florida College of Law have expressed a strong interest in helping to staff this study and providing facilities to house the project. The study would lead to an article to be published in *The International Lawyer* or some other influential publication.

As a preface to these projects, the following sections of this report provide a summary of the studies conducted to date by the Joint Task Force and help clarify the general direction of the Joint Task Force's recommendations. The studies of the Joint Task Force continue in the context of efforts being made by the Inter-American Law Committee and the Caribbean Law Committee at increasing member participation in these projects.

II. A Very Brief History of Cuba

Cuba was the second island Christopher Columbus discovered during his first trip to the New World in 1492. The Spanish colonization and conquest of Cuba began in earnest in 1511, as the Spanish subjugated and enslaved the island's primitive Indian population. In subsequent years, using systems that encouraged Indian and later African slavery, Spain first attempted to mine gold and other minerals, and ultimately concentrated on cash crops such as sugar and tobacco. The Spanish called Cuba "The Pearl of the Antilles" and turned it, together with Hispaniola and Puerto Rico, into one of the three most important islands in the Caribbean for a span of some 300 years.

During this early colonization period, Spain, England and France regarded the Caribbean, and particularly the islands of Cuba, Hispaniola and Puerto Rico, as an area with much more value than the newly discovered mainland of North America and Canada. Although the Caribbean had been apportioned between Spain and Portugal in a *papal bull* of 1493, the objections registered by England and France and the dominion of the Caribbean by the European powers sparked a number of wars over subsequent centuries. From the 1500s to the early 1800s, a number of the islands of the Caribbean changed control among the European powers. By the end of the XVII century, Spain, which had once controlled much of the Caribbean, was left only with dominion over Cuba, Puerto Rico, the eastern two-thirds of Hispaniola and Trinidad. During a brief period in 1762 and 1763, the British conquered Cuba, and returned it to Spain only after acquiring Florida from Spain.

Cuban feelings against Spanish colonialism started building in the 1860s. In 1895, José Martí, the great Cuban patriot, together with a strong group of Cuban nationalists, launched an attack upon Spain's control of Cuba. His attack, coupled with the U.S.'s entry into the war, produced a sort of freedom for Cuba in

1898. From 1898 until the declaration of the Cuban Republic in 1902, Cuba was governed under American military occupation. Tomás Estrada Palma, Cuba's first independent president, invited U.S. occupation and governance of Cuba again from 1906 to 1909.

After 1909, Cuba was governed under a constitution which ensured Cuba's close ties to the United States. Article 3 of the Constitution, commonly referred to as the "Platt Amendment," provided the consent of the Cuban government to U.S. intervention in Cuba for the preservation of Cuban independence, the maintenance of the Cuban government, and the protection of U.S. interests.

In 1933, an army sergeant and stenographer named Fulgencio Batista led a revolution against the existing Cuban government and shortly thereafter was successful in repealing the Platt Amendment. Batista remained in power until 1944, always maintaining a good relationship with the U.S. and recognizing the importance of the U.S. for the sale of Cuban sugar, the country's main agricultural commodity and export.

Although a new constitution was adopted in 1940, free elections were not held until 1944. Batista left Cuba for exile in Florida, and Ramón Grau San Martín began a term as president. In 1948, constitutional elections were again held and Carlos Prío Socarras was elected president. Batista returned from Florida to run for president in the elections of 1952. Fearing that he would not win the elections, Batista overthrew Prío's government and ruled as a dictator until the Cuban Revolution of 1959.

In 1947, a law student named Fidel Castro began his involvement in Cuban politics and, ultimately, his activities as a revolutionary. As a student, and later as a young radical, Castro was involved in revolutionary attempts to overthrow the government of the Dominican Republic and leftist protests throughout Latin America. In 1953, Castro began his revolution by launching an ultimately failed attack on the second largest military garrison in the country, located in the city of Santiago de Cuba, on the eastern tip of the island. After serving a short portion of his prison sentence for these revolutionary activities, Fidel Castro went to Mexico to prepare an attack against Batista's government.

In 1956, with financial backing from former President Prío and others dissatisfied with Batista's forceful taking of power, Castro arrived in eastern Cuba by sea with a small band of guerrilla fighters. Castro's group engaged Batista's forces in guerrilla warfare in the eastern part of the island over the next 2 1/2 years. Castro came to power after Batista fled Cuba on New Year's Eve 1958.

Just prior to the revolution, the population of Cuba stood at approximately 6 million people, 70 percent of whom lived in rural areas. Seventy-five percent of Cubans were white and of Spanish descent, and approximately 25 percent were black and mulatto. Notwithstanding Batista's dictatorship, Cuba's standard of living, health conditions and educational systems were better than most other Latin American countries. Cuba's chief products were sugar cane, tobacco, coffee, citrus fruits, bananas and cattle. Cuba also manufactured refined sugar,

cigars, cigarettes, rum, textiles and processed goods and mined iron, copper, nickel, chromium, barium, manganese, platinum, gold and silver. In 1958, 70 percent of Cuba's trade was with the U.S. American companies controlled a significant portion of Cuba's agricultural and mining sectors.

III. Cuba in the Present

Political considerations must be taken into account in any study of Cuban legal institutions. Since 1962, the U.S. has had in place an embargo against Cuba. Cuba's reaction to the U.S. embargo and various views of the embargo within the U.S. have been at the center of political debates relating to Cuba. The U.S. policy towards Cuba has been significantly affected by a politically powerful Cuban exile community within the U.S. At any time, there are likely to be political efforts on both sides of the embargo issue. The Cuban American National Foundation, and its leader, Jorge Más Canosa, has been most active in efforts to tighten the U.S. embargo. Even within the Cuban community, there are some signs that support for the U.S. embargo may be eroding, particularly since Cuba's liberalization of foreign investment policies are seen as an opportunity to effect political change in Cuba from within.

It is not the purpose of the Joint Task Force's studies to offer views on Cuba's political future. More importantly, the Joint Task Force does not propose to place itself or the Section at the center of a political debate or in support of political positions. The Joint Task Force's purpose is to increase the Section members' understanding of Cuba's legal system.

A. THE POLITICAL MAKEUP OF CUBA

1. *Background*

Since January 1, 1959, Cuban politics have been primarily dominated by the presence of one man: Fidel Castro. By the early 1960s, the mechanisms of Cuban politics and government were under the control of the Cuban Communist Party (CCP). But the formal structures of government did not exist. "For most of the 1960's and early 1970's, the Cuban government remained more or less improvisational, characterized by its guerrilla mentality. It was an entirely secret affair, with Castro announcing its decisions to the people." P. Marshall, *Cuba Libre: Breaking the Chains?* 77 (1987).

In 1975, the CCP held its first congress and adopted its first statutes. These statutes form the basis for party organization to this day. They provide that a CCP congress be held once every five years. In 1976, in connection with the first CCP congress, a new Constitution was adopted. This Constitution forms the basis for government organization to this day. In 1986, at the third congress of the CCP, Fidel Castro announced a "proceso de rectificación" (process of rectification) to deal with perceived failures of the Cuban government and economy after almost thirty years of revolutionary government.

2. *The Communist Party*

The CCP defines itself as the organized vanguard of the Cuban working class. Its membership is limited to less than 5 percent of the working population. The CCP is separate from the state, and does not have direct control of the army, police force or courts. Its authority is political and ideological. It is meant to lead by example and persuasion.

Obtaining membership in the CCP can be a difficult process. "Aspirants" to party membership must have been members of the Union of Young Communists for at least three years or have been supervised by local party cells for at least one year. Aspirants are identified by co-workers on the basis of "revolutionary qualities." The party cell locally makes the final decision on membership.

Each party member belongs to a local party "nucleus," generally at his place of work. Each party nucleus is affiliated with a municipal branch of the party, which in turn is affiliated with one of the fourteen provincial branches. Each provincial branch answers to the National Party Congress through the party Central Committee and Political Bureau. Party leaders are elected by the members of the party from among their ranks. Each nucleus elects delegates to its municipal branch. The municipal branch elects the delegates to the provincial branch. The provincial branch elects delegates to the National Congress. The National Congress elects the members of the party's Central Committee. The Central Committee elects the members of the Political Bureau. Because the National Congress of the party generally meets only once every five years, the Central Committee and Political Bureau, assisted by the CCP Secretariat, make the important decisions of party governance and hand these decisions down the party hierarchy.

3. *The Government*

Until the adoption of the 1976 Constitution, the revolutionary government of Cuba was self-appointed. After a brief period in 1959 and 1960 without an official position in the government, Fidel Castro began his service as Prime Minister. Until 1976, Osvaldo Dorticós served as President of Cuba. Since the adoption of the 1976 Constitution, Fidel Castro has served also as President. The 1976 Constitution, unlike constitutions of other socialist states, requires that the head of the state and the head of the government be the same person. Thus, Fidel Castro serves in the capacities of Prime Minister and President.

The 1976 Constitution has the stated goals of (1) supporting the socialist legal system, (2) clarifying the nature of the state and state entities, (3) decentralizing state political and administrative functions, (4) redrawing provincial boundaries, and (5) guaranteeing socialist rights and morality. The 1976 Constitution designates the CCP as the "superior guiding force of society and the state." In this context, all persons have rights and obligations. Rights include the rights to (1) employment, (2) health care, (3) free education, (4) be cared for in old age, and (5) freedom from discrimination. Obligations include obligations to (1) work, (2) serve in the military, and (3) protect the socialist state. All rights,

and particularly rights to freedom of expression, are limited in that they cannot be exercised in a manner which is inconsistent with the revolution.

Under the 1976 Constitution, elected officials should provide a dialogue between the masses and their "vanguard." Accordingly, the people elect members of the *Asambleas del Poder Popular* (Assemblies of Popular Power). Adults over the age of sixteen can elect members of the assembly in their locality of about 500 to 1,000 voters. From the localities, members of the municipal assemblies are selected. The municipal assemblies deal with local aspects of issues such as transportation, health care and education. From local assemblies, members of the two other higher assemblies are selected. There is one delegate to the provincial assemblies for each 10,000 citizens in the municipality. There is one delegate to the National Assembly for every 20,000 citizens in the municipality. The National Assembly elects the Head of State. The Head of State nominates the members of the Council of State for approval by the National Assembly. The National Assembly meets rarely and delegates to the Council of State and the Head of State the legislative and executive duties of governance.

At the local levels, members of the assemblies often are not members of the CCP. At the national level, the government operates more closely within the CCP. For example, in 1988, 91.7 percent of the members of the National Assembly and 100 percent of the members of the Council of State were members of the CCP. See Domínguez, *Cuban Foreign Policy*, 1988.

Courts are answerable to the National Assembly. There are municipal and provincial courts and one national Supreme Court. In lower courts, lay judges serve alongside professional judges. The private practice of law is prohibited; all legal services are provided by "collective law firms."

4. *The Process of Rectification*

The process of rectification launched at the Third Congress of the CCP in 1986 parallels the advent of *glasnost* and *perestroika* in the USSR. It is distinguished, however, by the closely-held principle that the interests of Cuba and the United States are fundamentally inconsistent. See S. Halebsky and J. Kirk (eds.), *Transformation and Struggle: Cuba Faces the 1990's*, 1990. The process of rectification has encouraged foreign investment into Cuba, with the adoption of laws for guarantees to foreign investors. In late 1991, however, the CCP congress emphasized surviving the shortages that would be caused by the demise of the USSR, and put the process "on hold."

B. LAWS RELATING TO FOREIGN INVESTMENT

1. *Foreign Investment and Private Property Ownership*

The primary legal basis for foreign investment in Cuba is Legislative Decree 50, enacted on February 15, 1982. See Council of State, Republic of Cuba, Legislative Decree No. 50 on Economic Association between Cuban and Foreign

Entities (February 15, 1982) (English translation by Republic of Cuba Chamber of Commerce) (referred to herein as Decree 50). Decree 50 establishes the legal and economic conditions pursuant to which foreign investors may invest in Cuba and participate in the Cuban economy. Decree 50 provides, however, that, to the extent not inconsistent, other laws or decrees, such as the Cuban Commercial Code, Cuban fiscal regulations, and international treaties, are also applicable to the foreign investor and its Cuban business. *See* Compilation of Decree 50 and other commercial laws affecting foreign investment in Cuba prepared by the Executive Committee of the Council of Ministers of the Republic of Cuba (March 1991) (referred to herein as the Compilation). Regulations interpreting Decree 50 have also been issued by certain agencies of the Cuban government. *Id.* The essential provisions of Decree 50 and the other governing laws are summarized in fairly substantial detail in the Compilation.

2. *Legal Forms and Ownership Requirements*

Article 1 of Decree 50 provides that the economic associations pursuant to which foreign investment may take place may be either in the form of Cuban and foreign capital "joint enterprises" or other entities "that do not imply the creation of a body corporate." Article 9 provides that the other noncorporate entities will be formalized by means of partnership agreements. Therefore, the implication of the legislation, which is confirmed by the Compilation and the Cuban Chamber of Commerce, is that the two permissible entities through which foreigners may invest in Cuba are corporations and partnerships. *See Compilation* at 3; *Possibility of Joint Ventures in Cuba*, Chamber of Commerce of the Republic of Cuba (March 1990) (referred to herein as the Chamber of Commerce Report); Decree 50, articles 1 and 9.

Decree 50 is somewhat ambiguous as to whether partnerships and corporations will be treated differently by the Cuban authorities. For example, the term "joint enterprises" is defined to refer to corporations. Partnerships are referred to as "the other forms of economic association." Some articles refer to both phrases, whereas others only refer to "joint enterprises." The implication would appear to be that when an article refers only to "joint enterprises," only corporations are covered by the provisions of that article. Article 2 enables the Executive Committee of the Council of Ministers to lease or contribute the temporary usufruct of "land and industrial, touristic [sic] or other types of installations that already exist or that may be built in Cuban national territory" only to joint enterprises, implying that partnerships are not eligible for this treatment. Perhaps of even greater significance, article 15 has a general limitation for foreign participation in a joint enterprise of 49 percent, but does not place a ceiling on a foreign investor's participation in a partnership. Nonetheless, the limited reference to "joint enterprise" in articles 2 and 15 may have been an oversight by the drafters of Decree 50, because both the Compilation, which includes a summary of subsequent regulations promulgated pursuant to Decree 50, and the Chamber of Com-

merce Report, do not distinguish between the two types of entities in discussing the 49 percent foreign participation rule and the capital contribution provisions. In fact, although recognizing the possibility of partnerships, the Compilation and the Chamber of Commerce Report subsequently refer only to "joint enterprises" in describing the legislation. Other commentators have taken the position that the legislation provides for different treatment of corporations and partnerships whenever the reference to "joint enterprises" is used without a corresponding reference to "the other forms of legal association." See Zorn and Mayerson, *Cuba's Joint Venture Law: New Rules for Foreign Investment*, 21 COL. J. TRANS. L. 273 (1983). However, this article was published before the Compilation and Chamber of Commerce Report were issued. Some of the other provisions which potentially apply differently to partnerships and corporations are discussed subsequently in this report.

Article 15 of Decree 50 provides that foreign participation in a joint enterprise will be limited to 49 percent. Greater participation may be permitted, however, in "exceptional cases for which the Executive Committee of the Council of Ministers authorizes greater participation." Pursuant to this legislative grant of discretionary authority, the current policy of the Cuban government is to authorize foreign participation up to 50 percent. See Compilation at 3; Chamber of Commerce Report at 2.

3. Formation

Decree 50 delegates to the Executive Committee of the Council of Ministers the authority to appoint a commission to authorize state enterprises and other Cuban organizations to join in economic association with foreign investors. The entity chosen by the Cuban and foreign party to conduct business in Cuba will acquire legal status and enter into force when the corporation or partnership is recorded in the registry maintained by the Cuban Chamber of Commerce. Decree 50, article 10. The entities must have Cuban nationality and a legal address in Cuba. The entities may, however, establish offices, subsidiaries and branches in other countries and have ownership interests in foreign entities. Decree 50, article 7.

Once the corporation or partnership is registered, the investing parties cannot be changed except by unanimous agreement. Thus, once formed, the legal, and possibly the beneficial, interests in the entity cannot be transferred by the foreign investor without the consent of the Cuban government or Cuban joint venture partner.

The National Registry for Foreign Trade Commission Agents (the Registry), which is part of the Cuban Chamber of Commerce, is the entity in charge of registering Cuban entities which will have foreign ownership. The Registry also acts on behalf of the entity with respect to ancillary matters, such as immigration, employee interviews, and contacts with other entities in Cuba. See Seijo, *Doing Business With Cuba*, *Cuban Foreign Trade* at 59 (March 1990). See also Resolution 6, Chamber of Commerce of the Republic of Cuba (9/15/82).

Before beginning business in Cuba, foreign interests must formalize their application with the Cuban Chamber of Commerce and include the following information, as provided by Decree No. 145 promulgated in June 1988:

1. A statement by an authorized official of the entity requesting representation;
2. an authorized copy of the entity's articles of incorporation or partnership agreement;
3. the name of the enterprise and its business address;
4. the type of entity (partnership or corporation);
5. a power of representation in favor of the agent in Cuba;
6. a description of the activities to be conducted by the entity, including a description of products to be sold, or services to be provided;
7. a specification of the Cuban enterprises or agencies with which the foreign entity will do business, and if the foreign entity has done business in Cuba in the past, information on the volume of operation over the last three years;
8. the amount of the entity's capital and a description of its capital structure;
9. a "substantiation" of the application, based on the benefits to be derived by both parties and how this business is related to the firm's main activities;
10. a bank statement dated within the last three months;
11. information regarding the entity's business over the last five years, as well as the activities and locations of subsidiaries or branches in other countries which the entity will involve in its business in Cuba;
12. the duration of the enterprise;
13. provisions regarding corporate governance; and
14. reasons and procedures for dissolution and liquidation.

The foreign owned entity must also appoint a registered agent, who must reside temporarily in Cuba, or enter into an agreement with a local person to carry out its business activities. *Id.*

Once the above documentation has been submitted, the members of the Chamber of Commerce who are in the same business as the applicant will be asked to give their views on the advisability of establishing the business in question in Cuba. After this process is completed, the application is submitted to the Ministry of Foreign Trade for approval. *Id.* After the application is authorized by a ministerial resolution, the Registrar will register the firm and issue a five-year license, which may be renewed for an additional five-year period on request. The license will specify the activity which the entity is authorized to conduct. The fees for registering to do business in Cuba are U.S. \$500 for registration, and U.S. \$15 to U.S. \$25 for subsequent amendments, renewals or cancellations. *Id.*

4. *Relationship Between Parties*

Article 8 of Decree 50 provides that, for corporations, the relationship between the Cuban party and the foreign investor will be governed by (i) the Memorandum

dum of Association, which will contain the basic agreement between partners, including provisions guaranteeing that the Cuban party will manage or co-manage the enterprise and describing the market which each of the parties is to guarantee for the products or services of the entity, and (ii) the Articles of Association, which will include provisions on organization, operation and corporate governance, such as stockholder meetings, quorum requirements, structure and powers of the board of directors, and other matters regarding corporate control. The parties may also agree to require either majority vote, super majority vote, or unanimous vote, on any one or more matters. The Articles of Association should set forth who the managing officers will be, their powers and responsibilities and their terms of compensation. Finally, the Articles of Association are to include provisions regarding the computation and distribution of profits, the method for liquidating capital assets, and the procedures for liquidating the entity.

For partnerships, article 9 provides only that partnership contracts are to be entered into which will formalize the economic association and agreement between the parties. Thus, although Decree 50 is much less detailed with respect to partnerships than with respect to corporations, in both cases the parties are apparently given extremely broad latitude in determining the content of their organizational documents and governing agreements.

Article 8 provides that, in the case of joint enterprises, the Cuban party to the organization must be guaranteed management or co-management of the entity. If the reference to "other forms of economic association" was intentionally omitted, this restriction could be circumvented by operating in the partnership form. Except for this restriction requiring at least co-management by the Cuban party, Decree 50 does not appear to impose any other restriction on the autonomy of the entity. In this regard, both the Compilation and the Chamber of Commerce Report specify that once the creation of a joint enterprise is approved and the legal formalities for forming it complied with, the enterprise will be completely independent of the state, with absolute freedom to appoint its board of directors and managerial personnel, define business and production plans, set prices and establish sales plans, and otherwise determine its business and financial procedures. Nonetheless, because the foreign investor may not own more than 50 percent of the entity, the actual independence of the enterprise may be somewhat illusory, unless the foreign investor is extremely careful in negotiating Articles of Association and Memoranda of Association which include adequate super majority or unanimous vote provisions with respect to certain issues, or other provisions for adequate protection.

5. Financing, Currency, and Repatriation of Profits

Contributions to the Cuban enterprise may consist of cash or other assets, including the usufruct of land and real estate by the Cuban party. Cash contributions will be measured in freely convertible currency, and noncash contributions will be valued by agreement between the parties. Decree 50, article 14. To obtain

approval of its registration, the foreign investor may have to guarantee the amount of its required contribution. Decree 50, article 16. If the required guarantee consists of a cash deposit, the investor will be entitled to the going rate of interest. *Id.* Working capital must be deposited by the entity in freely convertible currency accounts in banks belonging to the Cuban national banking system, through which collections and payments will be made. Decree 50, article 20. The National Bank of Cuba's official exchange rates must be used for all currency exchanges. *Id.* The entities are also permitted to borrow money in foreign currency denominated loans from either Cuba's national banking system or foreign banks. Decree 50, article 21. Financing from the Cuban national banks, however, must be complemented with resources contributed by the foreign investor. *See* Chamber of Commerce Report; Compilation at 4.

No other restrictions are imposed on the ability of the foreign partner to repatriate or otherwise withdraw its share of the entity's profits. Decree 50, article 23; Chamber of Commerce Report at 3; Compilation at 5. The foreign employees of the entity may, however, remit only 66 percent of their salaries abroad. Decree 50, article 44; Resolution No. 659 of the National Bank of Cuba (9/15/82); Chamber of Commerce Report at 3.

6. *Taxation*

Corporations and partnerships are both subject to an annual 30 percent tax on their net profits. Decree 50, article 26(a). This tax operates somewhat in the form of the U.S. branch profits tax, in that the tax may be avoided if the profits are reinvested in the Cuban enterprise. *Id.*; *cf.* Internal Revenue Code § 884. Unlike the U.S. branch profits tax, however, the Cuban net profits tax can be permanently avoided through reinvestment. *Id.* No tax is imposed on dividends paid by the Cuban enterprise to its foreign investors, or on the income earned by the foreign employees of the enterprise. *See* Chamber of Commerce Report at 4. Of course, the restriction that foreign employees may only remit 66 percent of their salaries abroad may be seen by some to operate as a "tax."

In addition to the income tax, the Cuban enterprise will be subject to a 25 percent payroll tax, payable on the wages and other income paid to the enterprise's Cuban employees. Decree 50, article 26(b). Finally, the enterprise will also be subject to tariff, customs, licensing and other similar taxes and fees. Decree 50, articles 26(c) through (e). All taxes and fees must be paid in freely convertible currency, even if the amount is expressed in Cuban currency.

The State Committee on Finance is authorized to temporarily exempt an entity, on a partial or complete basis, from net income tax and from the tariffs and other customs duties. Decree 50, article 28. The basis for exemption is the projected benefits the enterprise will bring to the Cuban economy, and the current policy is to more liberally provide an exemption during the initial years of the enterprise's operations. *Id.*; Chamber of Commerce Report at 4. In addition, the legislation provides that tourism related businesses are to receive special emphasis and assis-

tance, and it can be expected that tax exemptions may be more liberally granted to these enterprises. Decree 50, Special Provisions, First Article. No exemption or relief is provided from the worker's payroll tax.

7. *Commercial Regulations*

The Cuban government and its agencies are given a first option to provide the enterprise with fuel, raw materials, equipment, consumer goods, transportation and insurance, provided these can be provided at "internationally competitive" prices and conditions. If the Cuban government is unable to provide these goods and services on an internationally competitive basis, the enterprise is free to export or import products and services as necessary. Decree 50, articles 31 and 32. To facilitate an analysis of investing in Cuba, procedures are available prior to formation of the entity for the foreign investor to attempt to obtain precontractual pledges from the relevant Cuban state enterprises regarding which materials and services they can provide and on what basis. Chamber of Commerce Report at 4. *See also*, Decree 50, article 34. Conversely, once established, the Cuban enterprise is given a first option on sales of its goods to the Cuban government for use in the domestic Cuban market, to the extent the Cuban government would otherwise import these goods and services from other sources. Decree 50, article 33. As in the case of taxes, it is likely that special benefits may be obtained if the enterprise involves the development of tourism. *See* Chamber of Commerce Report at 7; Compilation at 7.

8. *Labor Relations*

In general, the employees of the Cuban enterprise must be Cuban. Decree 50, article 36. The wages paid to nonmanagement personnel will be determined by Cuban legislation currently in effect. The salaries paid to Cuban management are to be agreed upon by the Cuban and foreign parties to the enterprise (the Cuban "party" being either the Cuban government or one of its agencies or subdivisions), on a basis consistent with salaries paid to foreign managerial personnel. Decree 50, article 41.

Cuban personnel will be provided by a Cuban government agency, which will act as a type of intermediary in contracting between the foreign owned enterprise and the Cuban employees. Decree 50, Chapter V. The foreign owned enterprise will pay the wages and other employment costs to the Cuban government agency, which will in turn contract with and pay the Cuban employees. Decree 50, articles 38 and 39. The foreign owned enterprise will have no direct contractual relationship with the Cuban employees, which will instead be maintained by the Cuban agency. *Id.* Termination of Cuban employees by the foreign owned enterprise must be upon request to the Cuban agency. Decree 50, article 40; Chamber of Commerce Report at 6.

The enterprise may employ foreign personnel, without limitations, to fill positions requiring specialized technical or managerial skills not available from the

Cuban work force. Decree 50, article 43. The employment agreement with foreign personnel is to be determined solely by the enterprise. The Cuban government will grant the enterprise's foreign personnel temporary resident status and will permit them to leave and enter the country as necessary. Chamber of Commerce Report at 7.

9. *Duration of Enterprise*

The duration of the Cuban enterprise's authority to transact business in Cuba is to be set forth in its originally filed registration. Chamber of Commerce of the Republic of Cuba, Resolution 6, articles 12(j) and 14. Decree 50 does not establish a fixed duration or specific guidelines. Instead, the legislation provides only that the duration of the enterprise should be sufficient to enable both parties to recover their investment and realize sufficiently attractive rates of return. Decree 50, article 4. As mentioned above, the current practice appears to be to grant five-year terms, with the ability for a five-year extension.

On dissolution and termination of the enterprise's business, the procedures established in the Articles of Association or partnership agreement will generally govern. Commercial Code, article 227. In the absence of governing provisions in the Articles of Association or partnership agreement, the principles set forth in the Commercial Code should govern. In general, these provide for a distribution of the entity's assets to its owners after satisfaction of all creditor claims. Commercial Code, articles 228-238. On liquidation, the foreign investor may repatriate his share of the enterprise's profits and capital in freely convertible currency. Decree 50, article 23. In addition, the National Bank of Cuba may guarantee the foreign investor that if the activities of the enterprise are suspended by a unilateral act of the Cuban government, the foreign investor may repatriate his share of profits and capital on liquidation of the enterprise. Decree 50, article 24. Given that the National Bank of Cuba is an agency of the Cuban government, this guarantee may be of little comfort to foreign investors.

10. *Dispute Resolution*

Disputes between parties to the enterprise are to be settled in accordance with the procedures set forth in the Memorandum of Association and in the Articles of Association, or in the partnership agreement. Decree 50, article 13. Judgments issued by foreign courts cannot be enforced in Cuba unless the People's Supreme Court of Cuba orders their enforcement. Resolution 6, Chamber of Commerce of the Republic of Cuba, article 18.

C. HUMAN RIGHTS IN CUBA

The Joint Task Force is preparing a report of the legal aspects of human rights in Cuba. The completion of the report, particularly in the context of an apolitical study of legal institutions, requires further study. The Joint Task Force believes

that the proposed ILEX exchange previously described will be extremely useful in the completion of this important portion of its studies.

IV. The International Legislative Status of Cuba

Attached to this report as Exhibits A, B and C are lists, respectively, of (1) the international organizations of which Cuba is a member, (2) the multilateral agreements and conventions of which Cuba is a signatory, and (3) the bilateral trade agreements to which Cuba is a party. An appreciation of the internal functioning of Cuba's participation in these organizations and observance of these agreements is important to an understanding of Cuba's reintegration into a post-communist world community. The Joint Task Force believes that the proposed ILEX exchange previously described will be extremely important to the completion of this portion of its studies.

V. The U.S. Legal Framework Affecting Cuba

A. THE TRADING WITH THE ENEMY ACT AND RELATED LAWS

The Trading with the Enemy Act of 1917, 50 App. U.S.C.A. § 1 *et seq.* (the TWEA), empowers the President with broad authority to impose embargoes on commerce between persons subject to the jurisdiction of the United States and countries designated by the President as enemies of the United States. *See* section 5(b) of the TWEA. The TWEA originally applied to both wartime and peacetime emergencies. In 1977, the TWEA was amended to limit its applicability to wartime emergencies. Peacetime emergencies are now governed by the International Emergency Economic Powers Act, 50 U.S.C.A. § 1701 *et seq.* (the IEEPA). Section 203 of the IEEPA essentially grants to the President the same authorities as section 5(b) of the TWEA.

The 1977 amendment to the TWEA contained a grandfather clause, which allowed for the continuation of economic measures taken pursuant to section 5(b) of the TWEA prior to 1977. The provision permits the President to extend the exercise of authorities existing under the TWEA in 1977 for one-year periods upon a determination that such extension is in the national interest of the United States. With respect to Cuba, the President has extended such authority each year since the enactment of the 1977 amendment.

Section 5(b)(1) of the TWEA provides the basis for the existing restrictions applicable to Cuba. It authorizes the President to

(A) investigate, regulate, or prohibit, any transaction in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect

to, or transactions involving, any property in which any foreign country or national thereof has any interest. . . .

The authority granted to the President under section 5(b)(1) of the TWEA does not include

the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 [relating to the export of goods or technology to protect national security, 50 App. U.S.C.A. § 2404] or with respect to which no acts are prohibited by chapter 37 of Title 18, United States Code [enumerating crimes involving espionage and the disclosure of classified information, 18 U.S.C.A. §§ 792-799].

See 50 App. U.S.C.A. § 5(b)(4). This exclusion was added in 1988 by the Omnibus Trade and Competitiveness Act of 1988. "Other informational materials" has been deemed to include original works of art, *Cernuda v. Heavy*, 720 F. Supp. 1544 (S.D. Fla. 1989), but to exclude live coverage of sporting events where a royalty is to be paid to Cuba, *Capital Cities/ABC, Inc. v. Brady*, 740 F. Supp. 1007 (S.D.N.Y. 1990).

Pursuant to the TWEA, in 1962, President Kennedy declared a national emergency and placed an embargo on all trade with Cuba after the ascendancy of Fidel Castro to power. *See* Presidential Proclamation No. 3447, 3 C.F.R. § 157 (1959-1963 Comp.). Pursuant to the TWEA and the Kennedy proclamation, the Treasury Department, which is the agency charged with administering the TWEA, delegated this authority to the Office of Foreign Assets Control (OFAC). The OFAC administers economic sanctions and embargoes against selected foreign countries to further United States foreign policy and national security goals.

B. CUBAN ASSET CONTROL REGULATIONS

In 1963, the OFAC promulgated the Cuban Assets Control Regulations, 31 C.F.R. part 515 (the Regulations), which set forth the existing regulations governing property of Cuba and Cuban nationals subject to United States jurisdiction and dealings between the United States and Cuba. The Regulations, which became effective in 1963, generally (1) place a complete freeze on all public and private assets located in the United States owned by Cuba and Cuban nationals, and (2) prohibit virtually all direct or indirect commercial, financial, or trade transactions of any nature with Cuba by any person subject to United States jurisdiction, in order to prevent the transfer of wealth to Cuba. 31 C.F.R. §§ 201-205. The Regulations have repeatedly been upheld against constitutional challenges. *See, e.g., Teague v. Regional Commissioner of Customs, Region II*, 404 F.2d 441 (2d Cir. 1968) (First Amendment, freedom of speech); *Regan v. Wald*, 468 U.S. 222 (1984) (Fifth Amendment, freedom to travel).

The importation from Cuba or the exportation to Cuba, whether commercial

or otherwise, of “informational materials” are exempt from the Regulations, as are all transactions of common carriers incident to the importation or exportation of such materials. 31 C.F.R. § 515.206(a) and (b). This exemption does not authorize transactions related to informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services by a person subject to United States jurisdiction, nor does it authorize transactions incident to the transmission of restricted technical data as defined in section 799 of the Export Administration Regulations, 15 C.F.R. parts 768–799, or the exportation of goods for use in the transmission of any data, or travel to Cuba. 31 C.F.R. § 515.206(c)-(e). “Informational materials” is defined as set forth in A(3) above, and includes the tangible items described in 15 C.F.R. § 799.1, Control Group 5, CL No. 7599I, microfilm that reproduces the contents of certain publications, and similar materials, Control Group 9, CL No. 7999I, certain publications and related materials, and 15 C.F.R. § 779.3, General License GTDA, technical assistance available to all destinations, but does not include intangible items such as telecommunications transmissions.

Notwithstanding the general prohibitions of sections 501.201–205, the Regulations set forth certain “general licenses,” which permit certain activities without prior OFAC approval. Existing general licenses include (1) transactions of common carriers incident to the receipt or transmission of mail between the United States and Cuba; (2) transactions incident to the use of satellite channels for the transmissions of television news and news programs originating in Cuba by United States news organizations; (3) certain specified transactions related or incident to travel to Cuba for purposes other than business or tourism and for the purposes of (i) official government business, (ii) gathering news, making news or documentary films, or professional research and similar activities, and (iii) visiting close relatives in Cuba; (4) all financial and other transactions directly incident to the physical importation, whether commercial or otherwise, of paintings and drawings created by a person who is or was a Cuban national, other than works not yet in being, marketing or business consulting services, or services for the artistic or other alteration or enhancement of paintings or drawings; and (5) remittances to a close relative who is a resident national of Cuba (i) for the purposes of the support of the payee and members of his household, up to \$500 (per household) in any consecutive three-month period, and (ii) for the purposes of enabling the payee to emigrate from Cuba, up to \$500 only once. *See* 31 C.F.R. §§ 515.542, 515.560, 515.563 and 515.570.

Under the Regulations, a Cuban national who enters the United States on a visa issued by the State Department is authorized to engage in all transactions ordinarily incident to (1) travel between the United States and points outside of Cuba, (2) travel between the United States and Cuba on nonscheduled flights and voyages, (3) travel and maintenance within the United States, including the

payment of living expenses and acquisition of goods for personal consumption, and (4) normal banking transactions involving foreign currency checks and similar instruments. *See* 31 C.F.R. § 515.564.

The OFAC may authorize transactions not falling within a general licensing provision by granting a specific license issued on a case-by-case basis. Applications for specific licenses must be filed on Form TFAC-5 with the Federal Reserve Bank of New York, which acts on behalf of the OFAC in this regard. The Federal Reserve Bank of New York may refer a license application to the OFAC. 31 C.F.R. § 801(b). Examples of specific licenses which may be granted include (1) transactions incident to the receipt or transmission of communications between the United States and Cuba, such as traffic agreements to provide telephone and telegraph services, provision of services and settlement of charges under traffic agreements; (2) transactions described above for persons desiring to travel to Cuba for humanitarian reasons or for purposes of public performances, public exhibitions, or similar activities; (3) transactions not otherwise authorized as described above incident to participation in a public exhibition or performance in the United States by Cuban nationals who enter the United States for the purposes of such participation on a visa issued by the Department of State, other than a specific license authorizing any payment to Cuba or any Cuban national for television rights, appearance fees, royalties, or other payments resulting from any public exhibition or performance; (4) persons desiring to provide carrier service for travel to Cuba ("carrier service providers") and persons providing other services relating to travel to Cuba, such as travel agents ("travel service providers"); (5) persons desiring to provide payment forwarding services in connection with the general license described above; and (6) the unblocking of a blocked account or property on the grounds that no person having an interest in the account or property is a Cuban national. *See* 31 C.F.R. §§ 515.542(c), 515.560(i), 515.563(d) and 515.802.

EXHIBIT A

CUBAN MEMBERSHIP IN INTERNATIONAL ORGANIZATIONS

1. CEMA (Council for Mutual Economic Assistance)
2. ECLA (Economic Commission for Latin America)
3. FAO (Food & Agricultural Organization)
4. G-77 (Group of 77)
5. GATT (General Agreement on Tariffs and Trade of the United Nations)
6. IADB (Inter/American Defense Board) (nonparticipant)
7. IAEA (International Atomic Energy Agency of the United Nations)
8. IBEC (International Bank for Economic Cooperation)
9. ICAO (International Civil Aviation Organization of the United Nations)
10. IFAD (International Fund for Agricultural Development of the United Nations) (a nonparty, Inter-American Development Bank)
11. ICL (International Coffee League)
12. IHO (International Hydrographic Organization)
13. ILO (International Labor Organization)
14. IMO (International Maritime Organization of the United Nations)
15. IRC (International Rice Council)
16. ISO (International Sugar Organization)
17. ITU (International Telecommunication Union of the United Nations)
18. IWC (International Wheat Council) (a nonaligned movement)
19. NAM (Nonaligned Movement)
20. OAS (Organization of American States) (nonparticipant)
21. PAHO (Pan American Health Organization)
22. United Nations
23. UNESCO (United Nations Educational, Scientific, Cultural Organization)
24. UNIDO (United Nations Industrial Development Organization)
25. UPU (Universal Postal Union)
26. WFTU (World Federation of Trade Unions)
27. WHO (World Health Organization)
28. WIPO (World Intellectual Property Organization)
29. WMO (World Meteorological Organization)
30. WSG (Wool Study Group)
31. WTO (World Tourism Organization)

EXHIBIT B

CUBAN MULTILATERAL AGREEMENTS

1. Convention on the Privileges and Immunities of the United Nations. Cuba entered on September 9, 1959.
2. Convention of the Privileges and Immunities of the Specialized Agencies. Rejoined September 13, 1972.
3. Vienna Convention on Diplomatic Relations. Cuba signed on January 16, 1962.
4. Vienna Convention on Consular Relations. Cuba signed on April 24, 1963.
5. Convention on Special Missions. Cuba participated in accession on June 9, 1976.
6. Vienna Convention on the Representation of States in Their Relations with International Organizations of a Universal Character. Cuba signed on March 30, 1976.
7. Convention on the Prevention and Punishment of the Crime of Genocide. Cuba signed on December 28, 1949.
8. The International Convention on the Elimination of All Forms of Racial Discrimination. Cuba signed on June 7, 1966.
9. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity. Cuba participated in accession on October 6, 1972.
10. International Convention on the Suppression and Punishment of the Crime of Apartheid. Cuba participated in accession on February 1, 1977.
11. Convention on the Elimination of All Forms of Discrimination Against Women. Cuba signed on March 6, 1980.
12. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Cuba signed on January 27, 1986.
13. International Convention Against Apartheid in Sports. Signed by Cuba on May 16, 1986.
14. Convention on the Rights of the Child. Cuba signed on January 26, 1990.
15. Narcotics, Drugs and Psychotropic Substances Protocol Amending the Agreements, Conventions and Protocols on Narcotic Drugs, concluded at The Hague on January 23, 1912, and amended at various times thereafter. Cuba signed on December 12, 1946.
16. International Opium Convention. Accession by Cuba on January 8, 1935.
17. Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs. Cuba ratified on April 4, 1933.

18. Convention for the Suppression of the Illicit Traffic in Dangerous Drugs. Ratification to the amended convention by Cuba on August 9, 1967.
19. Convention on Psychotropic Substances. Accession by Cuba April 26, 1976. Protocol amending the single convention on narcotic drugs, 1961, signed by Cuba December 14, 1989.
20. United States Convention Against Illicit Traffic and Narcotic Drugs and Psychotropic Substances, signed by Cuba on April 7, 1989.
21. Convention for the Suppression of the Traffic in Women and Children, amendments concluded at Geneva on September 30, 1921, and amended by the protocol signed by Cuba at Lake Success, New York, on November 12, 1947.
22. Convention for the Suppression of the Traffic in Women of Full Age, concluded at Geneva on October 11, 1933, and amended by the protocols signed at Lake Success, New York, on November 12, 1947. Signed by Cuba on May 16, 1981.
23. International Agreement for the Suppression of the White Slave Traffic, signed at Paris on May 18, 1904, and amended by the protocol signed at Lake Success, New York, on May 4, 1949. Cuba signed on August 4, 1965.
24. International Convention for the Suppression of the White Slave Traffic, signed at Paris on May 4, 1910, and amended by the protocol signed at Lake Success, New York, on May 4, 1949. Accepted by Cuba on August 4, 1965.
25. Final protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others; accession from Cuba on September 4, 1952.
26. Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, amended through May 4, 1949. Accepted by Cuba on December 2, 1983.
27. On the Constitution of the World Health Organization drawn up by the International Health Conference, amended by the World Health Assemblies through 1977 and signed by Cuba.
28. Protocol concerning the Office Internationale D'Hygiene Publique, signed by Cuba on July 22, 1946.
29. Agreement establishing the International Fund for Agricultural Development. Cuba signed on September 23, 1977.
30. Constitution of the United Nations Industrial Development Organization, signed by Cuba on October 2, 1979.
31. International Convention to Facilitate the Importation of Commercial Samples and Advertising Material. Accession by Cuba on April 26, 1976.
32. Convention concerning customs facilities for touring. Signed by Cuba on June 4, 1954.
33. Customs convention on the temporary importation of private road vehicles. Cuba signed on June 4, 1954.

34. Customs convention on containers. Accession of Cuba on November 23, 1984. Developed by United Nations/IMCO Conference on Containers Traffic, November 13, 1972-December 2, 1972.
35. Customs convention on the temporary importation of commercial road vehicles. Accession by Cuba on September 16, 1965.
36. European convention on customs treatment of pallets used in international transport. Accession of Cuba on September 26, 1963.
37. Convention on the taxation of road vehicles engaged in international goods transport. Accession by Cuba on February 14, 1966.
38. Convention on the taxation of road vehicles engaged in international passenger transport. Accession by Cuba on September 16, 1965.
39. Convention on road traffic. Accession by Cuba on September 30, 1977.
40. Convention on road signs and signals. Accession by Cuba on September 30, 1977.
41. Convention of the International Maritime Organization. Amendments to numerous Articles through 1983 accepted by Cuba on November 3, 1983.
42. Agreement for facilitating the international circulation of visual and audio-taping materials of an educational, scientific and cultural character. Acceptance by Cuba on February 7, 1977.
43. Agreement on the importation of educational, scientific and cultural materials. Accepted by Cuba on August 27, 1952.
44. International agreement for the establishment of the University for Peace. Accession from Cuba on August 9, 1985.
45. Statutes of the International Center for Genetic Engineering and Biotechnology. Signed by Cuba on September 13, 1983.
46. A protocol of the reconvened plenipotentiary meeting on the establishment of the International Center for Genetic Engineering and Biotechnology. Statutes adopted at the Ministerial Level Plenipotentiary meeting on the Establishment of the International Centre for Genetic Engineering and Biotechnology in September 1983. Confirmed by Cuba on April 4, 1984.
47. Convention on the political rights of women. Signed by Cuba on March 31, 1953.
48. Convention on the nationality of married women. Signed by Cuba on February 20, 1957.
49. Convention on consent to marriage, minimum age for marriage and registration of marriages. Signed by Cuba on October 17, 1963.
50. Convention on the international right of correction.
51. Miscellaneous penal matters. Signed by Cuba on June 28, 1954.
52. Freedom of information; accession from Cuba on November 17, 1953.
53. Convention on Slavery. Signed at Geneva on September 25, 1926, and amended by the protocol done at the headquarters of the United Nations, New York, on December 7, 1953. Signed by Cuba on June 28, 1954.

54. Convention on recovery board of maintenance. Signed by Cuba on June 20, 1956.
55. Convention on the territorial sea and the contiguous zone. Signed by Cuba on April 29, 1958.
56. Convention on the High Seas, signed by Cuba on April 29, 1958.
57. Convention on the continental shelf, signed by Cuba on April 29, 1958.
58. Optional protocol of signature concerning the compulsory settlement of disputes. Definitive signature of Cuba on April 29, 1958.
59. United Nations Convention on the Law of the Sea, signed by Cuba on December 10, 1982.
60. Convention on the recognition and enforcement of foreign arbitral awards. Accession of Cuba on December 30, 1974.
61. European convention on International Commercial Arbitration. Accession of Cuba on September 1, 1965.
62. Convention on registration of objects launched into outer space. Accession of Cuba on April 10, 1978.
63. Convention on the prohibition of military or any other hostile use of environmental modification techniques. Signed by Cuba on September 23, 1977.
64. Convention on prohibitions or restrictions on the use of certain conventional weapons which may be deemed to be injurious or to have indiscriminate effects. Signed by Cuba April 10, 1981.
65. Optional protocol concerning the suppression of counterfeiting currency. Accession by Cuba on June 13, 1933.
66. Convention establishing an international relief union. Accession by Cuba on June 18, 1934. Notice of withdrawal from the International Relief Union, October 8, 1956, for Cuba.

EXHIBIT C

CUBAN BILATERAL TRADE AGREEMENTS

1. International Coffee Agreement. Originated and amended by the International Coffee Council. Amended through 1983. Signed by Cuba on December 31, 1984.
2. International Sugar Agreement. Amended through 1987. Signed by Cuba on December 18, 1968.
3. International Cocoa Agreement, 1972. Signed by Cuba on January 15, 1973.
4. Agreement Establishing the Common Fund for Commodities. Signed by Cuba on June 22, 1983.
5. International Wheat Agreement of the Wheat Trade Convention, 1986. Signed by Cuba on June 30, 1986.
6. Terms of reference of the International Nickel Study Group. Revisional application by Cuba on December 18, 1989.
7. Convention on fishing and conservation of the living resources of the high seas. Signed by Cuba on April 29, 1958.